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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,235	03/03/2004	Eve Gambla		4672

7590 04/11/2007
 JoAnne M. Denison
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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/792,235	GAMBLA ET AL.	
	Examiner	Art Unit	
	Robert M. Fetsuga	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/27/07</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election without traverse of Species I in the reply filed on January 26, 2007 is acknowledged.

Claims 3 and 5 are objected to as not encompassing the elected embodiment where applicant's state the contrary at page 4 of the response filed January 26, 2007. Claim 3 recites an "L-shaped" flange which feature is specific to the embodiment of Fig. 3 (pg. 14 ln. 15), and claim 5 recites a handle "provided along the exterior portion of the semi-elliptical walls" which feature appears specific to the embodiment of Fig. 4 (Figs. 1 and 2 are excluded pg. 14 lns. 2-3). Accordingly, claims 3 and 5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b).

2. The drawings are objected to because reference numeral "166" (pg. 15 ln. 13) is missing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes

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made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "six inches to twenty four inches" feature set forth in claim 1, "substantially annular" and "perpendicular" features set forth in claim 2, "exterior portion" set forth in claim 4, and subject matter set forth in claim 9, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

4. Claims 2 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

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out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites a "substantially annular" flange. The flange 20 does not appear to be "annular", and this use of the term is repugnant to the meaning thereof.

Claim 9 apparently should depend from claim 8 rather than claim 7 and will be considered as such in this Office action only.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1, 2, 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Masters et al.

The Masters et al. (Masters) reference discloses a spray shield comprising: a wall 101; a flange 113; a domed top (illustrated), as claimed. Re claim 1, the wall height appears to be within the recited range (Fig. 4). Re claim 2, the flange is "substantially annular" in the same sense as with applicants' disclosed invention. Re claim 7, the wall extension appears to be within the recited range (col. 2 lns. 15-17).

7. Claims 1, 2, 4 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masters and Gambla et al.

Re claims 1 and 7, the choice of proportions would appear obvious choices to be made.

Re claim 8, although the wall of the Masters spray shield does not include an image, as claimed, attention is directed to the Gambla et al. (Gambla) reference which discloses an analogous spray shield which further includes a wall 124 having an image 120. Therefore, in consideration of Gambla, it would have been obvious to one of ordinary skill in the spray shield art to associate an image with the Masters wall in order to provide entertainment.

8. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

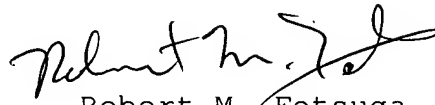
9. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886

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who can be most easily reached Monday through Thursday. The
Office central fax number is 571/273-8300.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", with a stylized flourish at the end.

Robert M. Fetsuga
Primary Examiner
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